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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,268

11/17/2003

Roy Higgs

4599

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Patent Office of J. John Shimazaki  
P.O. Box 650741  
Sterling, VA 20165

EXAMINER
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BOVEJA, NAMRATA

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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10/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/715,268	<b>Applicant(s)</b> HIGGS, ROY	
	<b>Examiner</b> Namrata Boveja	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/20/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is in response to communication filed on 11/17/2003.
2. Claims 1-20 are presented for examination.

#### **Note**

3. Examiner considered making a subcombination usable together in a single combination Restriction, but examined the entire Application in the interest of time. A subsequent Restriction request may be made by the Examiner under 35 U.S.C. 121 to ask the Application to elect a single subcombination for prosecution on the merits to which the claims shall be restricted.

#### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-6, and 9-12, are rejected under 102(b) as being anticipated by the article by Alan C. Taylor, titled, "Land Rovers Will Soon Be Rolling Into Santa Fe," that was published in The Santa Fe New Mexican on November 20, 1999 on pg. C.1 (hereinafter Taylor).

In reference to claim 1, Taylor teaches a method of operating a vehicle dealership, comprising: providing an off-road vehicle course having off-road conditions upon which off-road vehicles can be driven (page 1 lines 6-12 and 19-29); locating said vehicle course on, adjacent or near the dealership's property (page 1 lines 1, 2, 6-14,

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and 19-29); and operating said off-road vehicle course in a manner that allows potential customers to test-drive the off-road vehicles that are offered for sale by the dealership on said course (page 1 lines 6-12 and 23-29).

5. In reference to claim 4, Taylor teaches the method wherein the dealership provides at least one dedicated off-road vehicle that is specifically set aside to be test driven on said course (page 1 lines 9-12 and 19-29 and page 2 lines 15-18).

6. In reference to claim 5, Taylor teaches the method wherein the dealership enables the course to be used for a limited time by a customer or group of customers (i.e. customers that visit the store can drive on the off-road track for 15 minutes) (page 1 lines 6-12 and lines 19-29).

7. In reference to claim 6, Taylor teaches the method wherein the dealership promotes the course as a means of promoting the dealership, wherein no other similar course is made available in a predetermined geographical area, so that potential customers that want to test-drive vehicles in off-road conditions will have to come to that dealership to do so (page 1 lines 6-12 and 23-29, page 2 lines 39-42).

8. In reference to claim 10, Taylor teaches a vehicle dealership comprising: a plurality of off-road vehicles offered for sale (page 1 lines 19-29 and page 2 lines 15-18); and an off-road course having off-road conditions upon which off-road vehicles offered for sale by the dealership can be test-driven by consumers (page 1 lines 6-12 and 19-29).

9. In reference to claim 11, Taylor teaches the dealership wherein said off-road course is located on, adjacent or substantially near the dealership's property, and said

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off-road course is operated by or on behalf of the dealership (page 1 lines 1, 2, 6-14, and 19-29).

10. In reference to claims 9 and 12, Taylor teaches the method, wherein the course comprises various terrains and obstacles to provide an effective test of the vehicle's performance and handling (page 1 lines 6-12 and 19-29).

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

11. Claims 13, 18, and 19 are rejected under 102(a) as being anticipated by the article titled, "UnitedAuto Group Completes Largest Luxury Automobile Shopping Mall in the United States; North Scottsdale Dealerships Feature Museum, Test-track and Customer Lounge/Cafe," that was published in Business Wire on November 13, 2002 on pg. 1 (hereinafter UAG).

In reference to claim 13, UAG teaches a method of operating a commercial complex, comprising: operating a commercial complex (page 1 lines 11-24 and page 2 lines 1-21); providing an off-road vehicle course having off-road conditions upon which off-road vehicles can be driven (page 1 lines 16-24); locating said vehicle course on, adjacent or near the commercial complex (page 1 lines 16-24 and page 2 lines 10-18); and operating or having operated said off-road vehicle course in a manner that allows customers and potential customers that come to the commercial complex an opportunity

to drive vehicles on said course (page 1 lines 16-24 and page 2 lines 10-18).

12. In reference to claim 18, UAG teaches the method wherein no other similar course is made available in a predetermined geographical area, so that the commercial complex can use the vehicle course as a means of attracting customers and potential customers to that complex and not other complexes (page 1 lines 11-24 and page 2 lines 10-18).

13. In reference to claim 19, UAG teaches the method wherein said complex is a shopping mall, and the off- road course is located on, adjacent or near said shopping mall (page 1 lines 11-24 and page 2 lines 10-18).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 3 is rejected under U.S.C. 103(a) as being unpatentable over Taylor in view of the article by Peter Sinton, titled, "Road Warriors / The weekend racers who haul their Porsches, BMWs and Corvettes out to makeshift racetracks aren't hoping for prizes or medals – just a chance to indulge their fantasies," published in the San Francisco Chronicle on July 2, 1995, pg. 1.Z.5 (hereinafter Sinton).

In reference to claim 3, Taylor does not teach the method wherein the potential customers are allowed to drive their own vehicles on said course so that they can

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compare their own vehicles with those being offered for sale by the dealership. Sinton teaches the method wherein the potential customers are allowed to drive their own vehicles on a course (page 1 lines 1-6 and 22-24 and page 2 lines 34-39). It would have been obvious for Taylor to allow potential customers to drive their own vehicles on the course as well to enable them to easily compare their vehicle's limitations to the new ones that the dealerships were trying to sell to the customers. The limitation that customers should be allowed to do this so that they can compare their own vehicles with those being offered for sale by the dealership is intended use, and it is not given any patentable weight.

15. Claim 8 is rejected under U.S.C. 103(a) as being unpatentable over Taylor in view of UAW and further in view of Official Notice.

In reference to claim 8, Taylor does not teach the method wherein each dealership is allowed to use the course to enable potential customers to test-drive their vehicles. UAW teaches the method wherein each dealership is allowed to use the course to enable potential customers to test-drive their vehicles (page 1 lines 16-24). It would have been obvious for Taylor to allow multiple dealerships to use the course for test-driving vehicles to enable the customers to experience the uniqueness of different brands of vehicles, and to save the customer time for having to go to different tracks to test drive different vehicles.

Taylor also does not teach the method wherein a plurality of vehicle dealerships have entered into an arrangement whereby the dealerships contribute to the costs and/or efforts associated with the development and/or operation of the course. Official

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Notice is taken that is old and well known to for multiple vendors to enter into an arrangement and contribute to the costs associated with the operation of a common area that is utilized by the vendor's patrons. For example, the food court seating area in a mall is maintained for all of the vendors in the food court by payment received by the vendors, since patrons for each of those vendors utilize the food court. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to have entered into an arrangement whereby the dealerships contribute to the costs and/or efforts associated with the development and/or operation of the course to reduce maintenance costs for the dealerships by sharing the expense among multiple dealerships.

16. Claims 2 and 7 are rejected under U.S.C. 103(a) as being unpatentable over Taylor in view of Official Notice.

In reference to claim 2, Taylor does not teach the method wherein the potential customers are required to pay a fee to test drive vehicles on said course, and wherein the fee paid is reimbursed when the customer purchases a vehicle from the dealership. Official Notice is taken that is old and well known to pay a fee and to have the fee reimbursed when the customer makes a purchase. For example, when a user completes an application for leasing an apartment, he may be charged an application fee, which can be reimbursed and applied to the first month's rent once the user occupies the apartment. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to charge a fee for test driving

vehicles on a course, and reimbursing the fee when the customer ends up purchasing a vehicle from the dealership to attract only serious buyers to the test-driving facilities.

17. In reference to claim 7, Taylor teaches test-driving vehicles on a course (page 1 lines 6-12 and 23-29). Taylor does not teach the method wherein arrangements are made with retail establishments to provide discounts and/or incentives for test-driving vehicles. Official Notice is taken that is old and well known for dealers to provide discounts or incentives for test-driving vehicles. For example, car dealers frequently pass out discounts and incentives such as a free gas card or X dollars off the purchase of a new car if customers come in to test drive and end up buying a car on the same day. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to provide discounts or incentives for test driving vehicles to help close the deal by motivating customers to buy the vehicles on the day they come to the dealership, since the customer may be acting on an impulse and will not have the opportunity to shop around for the same car at other dealerships.

18. Claim 15 is rejected under U.S.C. 103(a) as being unpatentable over UAW in view of Sinton.

In reference to claim 15, UAW does not teach the method wherein the potential customers are allowed to drive their own vehicles on said course for a fee. Sinton teaches the method wherein the potential customers are allowed to drive their own vehicles on a course for a fee (page 1 lines 1-6 and 22-24 and page 2 lines 34-39). It would have been obvious for UAW to allow potential customers to drive their own

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vehicles on the course by paying a fee to enable them to easily compare their vehicle's limitations to the new ones that the dealerships were trying to sell to the customers.

19. Claims 14, 16, 17, and 20 are rejected under U.S.C. 103(a) as being unpatentable over UAW in view of Official Notice.

In reference to claim 14, UAW does not teach the method wherein certain off-road vehicles are provided that the customers and potential customers can rent for a limited time for a fee. Official Notice is taken that is old and well known to provide certain off-road vehicles to customers as rentals for a limited time for a fee. For example, when customers participate in go carting, they rent the vehicles for a limited time for a fee. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to provide certain off-road vehicles to customers as rentals for a limited time for a fee to enable users who don't already own a vehicle to participate in sporting events.

20. In reference to claim 16, UAW does not teach the method, wherein a discount on fees or other incentive for using the course is provided based on purchases made by said customers and potential customers at one or more retail establishments located at said complex. Official Notice is taken that is old and well known to provide an incentive for using an entertainment attraction based on purchases made by the said customers at a retail establishment. For example, customers receive free game tokens at Chuck E Cheese's when they buy a Pizza and drinks. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to provide a discount on fees or other incentive for using the course based on purchases made by

said customers and potential customers at one or more retail establishments located at said complex to help generate more sales for both the retail and the course businesses.

21. In reference to claim 17, UAW does not teach the method, wherein paying a fee for using the course entitles the customers and potential customers to one or more discounts or other incentives at one or more retail establishments located at said complex. Official Notice is taken that is old and well known to pay a fee for an entertainment attraction and to receive an incentive at a retail establishment located in the complex when paying the fee for the entertainment attraction. For example, when a customer pays to watch a movie at the movie theatre, he can receive the incentive of a discount on the purchase of popcorn from the concession stand at the movie theatre by showing his movie ticket stub. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to provide the customers incentives at one or more retail establishments located at said complex, when the customers pay a fee for using the course to enable both the course and the retail establishments to generate additional sales.

22. In reference to claim 20, UAW teaches a shopping mall complex with an off-road course located on it (page 1 lines 16-24 and page 2 lines 10-18). UAW does not specifically teach providing the off-road course adjacent to parking areas, wherein said course extends through the complex in a manner that allows customers and potential customers to view vehicles on the course. Official Notice is taken that it is old and well known to provide an off-road course adjacent to a parking area, and to extend the course through the complex in a manner that allows customers and potential customers

to view vehicles on the course. For example, go cart off-road courses are located near a parking lot, where the customers can easily park their cars before coming on the course, and the go cart courses are made in such a way that allows customers and potential customers to view vehicles on the course as the vehicles engage in go-carting to generate interest by the onlookers in the activity. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to provide an off-road course adjacent to a parking area, and to extend the course through the complex in a manner that allows customers and potential customers to view vehicles on the course to save customers time from having to walk to the course from a distant parking lot and to encourage customers who are watching the people participating on the course to also participate in test driving.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Eric Stamber can be reached on 571-272-6724. The **Central Fax Number** for the organization where this application or proceeding is assigned is **571-273-8300**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For


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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

NB

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October 8<sup>th</sup>, 2007

  
RETTA YEHDEGA  
PRIMARY EXAMINER